

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 MARTI TELFORD,

12 Plaintiff,

13 v.

14 WALGREENS, EBAY, JOHN R. AMES,
15 DIANA BROOM, AND LYLE TOLSMA
16 in their personal and official capacities,
17 ANDREW SAUL and MARY
18 LEWANDOWSKI, in their official
19 capacities, RANDY BINGHAM dba
20 MORGAN AUTOMOTIVE,
21 INTERSTATE NATIONAL DEALER
22 SERVICES INC., and DOES 1-10,

23 Defendants.
24

CASE NO. 21-5094 RJB-TLF

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING CASE WITHOUT
PREJUDICE

25 THIS MATTER comes before the Court on the Report and Recommendation of U.S.
26 Magistrate Judge Theresa L. Fricke. Dkt. 3. The Court has considered the pleadings filed
27 regarding the Report and Recommendation and the motion and the remaining file.

28 On February 5, 2021, the Plaintiff, *pro se*, filed an application to proceed *informa*
29 *pauperis* (“IFP”) and a proposed civil complaint. Dkt. 1. The proposed complaint asserts claims

1 against a wide range of Defendants for various seemingly unconnected events including: Utah
2 Defendant Randy Bingham's alleged failure to rebuild a car engine after being paid by the
3 warranty company Defendant Interstate National Dealers Services around June of 2016; events
4 in March 2017 involving Plaintiff's attempts at purchasing a car from a seller on Defendant
5 EBAY with gift cards from she purchased from a Wyoming Defendant Walgreens store in which
6 the car seller took the gift card numbers but did not deliver the car and Defendants EBAY and
7 Walgreens are alleged to have failed to cancel the transactions. *Id.* The proposed complaint also
8 includes disputes with various employees of the U.S. Social Security Administration (in both
9 their official and individual capacities) who reside in South Dakota and Washington D.C.; and a
10 dispute over real property (and its tax assessed value) in Texas. Dkt. 1-1. The Plaintiff asserts
11 claims under "the federal Racketeering Act," for "ratification and adoption of ultra vires acts,"
12 for violation of her equal protection rights pursuant to 42 U.S.C. § 1983, for violation of the
13 Rehabilitation Act, for "Larson-Dugan declaratory and injunctive specific relief against the ultra
14 vires acts of SSA officials," violation of the Washington Consumer Protection Act, intentional
15 misrepresentation, conversion, and breach of the covenant of good faith and fair dealing. *Id.*

16 The case was referred to a magistrate judge for a recommendation on whether the
17 application for IFP should be granted. On March 5, 2021, the instant Report and
18 Recommendation (Dkt. 3) was issued. The Report and Recommendation notes that none of the
19 Defendants live in Washington, none of the events that are the basis for the Plaintiff's claims
20 occurred in Washington, and the real property is in Texas. Dkt. 3. It recommends denial of the
21 application for IFP and dismissal of the case without prejudice for improper venue. *Id.*

22 On March 17, 2021, the Plaintiff moved for a 45-day extension of time to file objections
23 to the Report and Recommendation. Dkt. 4. Her motion was granted and she was given until to
24

1 April 30, 2021 file objections. Dkt. 5. Plaintiff's motion for the recusal of Judge Fricke was
2 denied. Dkts. 6 and 7.

3 **DISCUSSION**

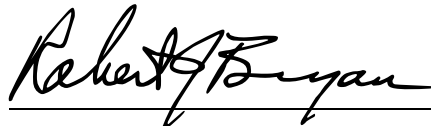
4 The Report and Recommendation (Dkt. 3) should be adopted and the case dismissed
5 without prejudice for improper venue pursuant to 28 U.S.C. § 1406(a). Further, the Plaintiff's
6 application to proceed IFP (Dkt. 1) should be denied as moot.

7 **IT IS SO ORDERED.**

- 8 • The Report and Recommendation of U.S. Magistrate Judge Theresa L. Fricke
9 (Dkt. 3) **IS ADOPTED**;
- 10 • This case **IS DISMISSED WITHOUT PREJUDICE** for improper venue
11 pursuant to 28 U.S.C. § 1406(a); and
- 12 • The Plaintiff's application for IFP (Dkt. 1) **IS DENIED AS MOOT**.

13 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
14 to any party appearing *pro se* at said party's last known address.

15 Dated this 3rd day of May, 2021.

16 

17 ROBERT J. BRYAN
18 United States District Judge